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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,954	03/05/2002	Hiroyuki Okuyama	112857-318	3912
29175	7590	06/17/2004	EXAMINER	
BELL, BOYD & LLOYD, LLC			TRAN, TAN N	
P. O. BOX 1135			ART UNIT	
CHICAGO, IL 60690-1135			PAPER NUMBER	
			2826	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,954

Applicant(s)

OKUYAMA ET AL.

Examiner

TAN N TRAN

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed on 04/26/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6-10 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1,2,6,7,10 stand rejected under 35 U.S.C. 102(a) as being anticipated by Hata et al. (6,320,209).

With regard to claims 1,6,7,10, Hata et al. discloses a semiconductor light emitting device is a semiconductor laser comprising: a base body 101; a selection mask (110,104) formed on the base body 101, the selection mask (110,104) defining a stripe-shaped opening; a GaN compound semiconductor layer 105 serves as wurtzite type compound semiconductor layer formed by selective growth from the opening such as to have a ridge line substantially parallel to long-sides of the opening formed at the intersection of two crystal planes comprising (1-101) plane; and a first conductive type (n-type) cladding layer 106, an active layer 107, and a second conductive type (p-type) cladding layer 108 formed on the semiconductor layer 105 wherein the second conductive type cladding layer 108 is formed the planes located on each side of the ridge line. (Note lines 25-31, column 5, and lines 66,67, column 6, fig. 1 of Hata et al.).

With regard to claim 2, Hata et al. discloses an electrode 111 is formed on only a region of the second conductive type cladding layer 108. (Note fig. 1 of Hata et al.).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8,9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hata et al. (6,320,209).

With regard to claims 8,9, Hata et al. discloses a semiconductor light emitting device is a semiconductor laser comprising: a base body 101; a selection mask (110,104) formed on the base body 101, the selection mask (110,104) defining a stripe-shaped opening; a GaN compound semiconductor layer 105 serves as wurtzite type compound semiconductor layer formed by selective growth from the opening such as to have a ridge line substantially parallel to long-sides of the opening formed at the intersection of two crystal planes comprising (1-101) plane; and a first conductive type (n-type) cladding layer 106, an active layer 107, and a second conductive type (p-type) cladding layer 108 formed on the semiconductor layer 105 wherein the second conductive type cladding layer 108 is formed the planes located on each side of the ridge line. (Note lines 25-31, column 5, and lines 66,67, column 6, fig. 1 of Hata et al.).

Hata et al. does not disclose the selection mask defining a stripe-shaped opening extending with a longitudinal direction taken as a direction tilted from one of a (1-100) direction and a (11-20) direction by an angle ranging from about 0.2° to about 20° .

However, it would have been obvious to one of ordinary skill in the art to form the selection mask defining a stripe-shaped opening extending with a longitudinal direction taken as a direction tilted from one of a (1-100) direction and a (11-20) direction by an angle ranging from about 0.2° to about 20° so that the semiconductor layer 112 of Hata et al. can be easily grown.

Allowable Subject Matter

3. Claims 3,4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 3,4 are allowable over the prior art of record, because none of these references disclose or can be combined to yield the claimed invention such as an electrode is formed in a region of the second conductive type cladding layer excluding a portion near the ridge line as recited in claim 3, an electrode is formed only in a region of the second conductive type cladding layer that is located on the pair of crystal planes and which has regular crystal steps as recited in claim 4.

Response to Arguments

3. Applicant's arguments filed 04/26/04 have been fully considered but they are not persuasive.

It is argued, at page 5 of the remark, that "the present application claims priority to Japanese Application P2001-061837, filed on Marched 6, 2001. This date precedes the effective 35 U.S.C 102(a) date of the Hata reference. Accordingly this patent cannot be considered prior art for the purposes of 35 U.S.C 102(a)". However, a filing date of Hata et al. reference is April 28, 1999 before the present application claims priority to Japanese Application P2001-061837, filed on Marched 6, 2001. Thus, Applicant's claims 1,2,6-10 do not distinguish over Hata et al. reference.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


5. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Tan Tran whose telephone number is (571) 272-1923. The examiner can normally be reached on M-F 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

TT

June 2004


Minhloan Tran
Primary Examiner
Art Unit 2826